

AMENDED IN ASSEMBLY APRIL 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1612

Introduced by Assembly Member Pavley

(Principal coauthors: Assembly Members Jones and Saldana)

(Principal coauthor: Senator Chesbro)

**(Coauthors: Assembly Members Chan, Chu, Hancock, Koretz,
Levine, and Vargas)**

(Coauthors: Senators Escutia, Kehoe, Kuehl, Ortiz, Soto, and
Torlakson)

February 22, 2005

An act to add Division 12.8 (commencing with Section 19000) to the Public Resources Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Pavley. Cigarettes: litter.

Existing law, the Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the California Families and Children Act of 1998 (Proposition 10), and the Tobacco Tax and Health Protection Act of 1988.

This bill would enact the Cigarette Pollution and Litter Prevention Act of 2005 and would require a manufacturer on *or before* July 1, 2006, *and on or before July 1 annually thereafter*, to pay a *specified* fee to the State Board of Equalization for each package of cigarettes sold in the ~~State of California~~ *state* during the previous ~~6 months~~ *year*. The bill would require each manufacturer to ~~thereafter~~ pay the fee based upon the number of packages of cigarettes sold in the state during the previous ~~6 months~~ *year*. The bill would require the board to notify each manufacturer of the amount due.

~~The bill would require the fee to be in amount that is not greater than specified costs mitigated by the bill.~~

The bill would require the board to deposit the fees collected into the Cigarette Pollution and Litter Prevention Fund, which the bill would create in the State Treasury. The bill would authorize the revenues in the fund to be expended by the Department of Conservation and State Department of Health Services, upon appropriation by the Legislature, for specified purposes and programs, including to help offset ~~state government, local government, and other~~ public agency costs associated with the cleanup of ~~cigarette cigarette-related pollution and~~ litter and to ~~mitigate cigarette-related pollution~~, to develop and implement public education and outreach programs, to assist individuals to access and utilize smoking cessation services, ~~to develop and implement community interventions~~, to reimburse the board for its costs of ~~administration and~~ collection of the fee, and to provide for the costs of administering the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 12.8 (commencing with Section 19000) is added to the Public Resources Code, to read:

DIVISION 12.8. CIGARETTE POLLUTION AND LITTER
PREVENTION ACT OF 2005

CHAPTER 1. GENERAL PROVISIONS

19000. (a) This division shall be known, and may be cited as, *as* the Cigarette Pollution and Litter Prevention Act of 2005.

(b) The Legislature finds and declares all of the following:

(1) There are approximately four million smokers in California who annually consume an estimated 1.2 billion packs of cigarettes, or approximately ~~22~~ 24 billion cigarettes.

(2) Pollution and litter from these cigarettes and their remnants pose a significant and growing cost to taxpayers, public health, and the environment.

(3) The vast majority of cigarette remnants or “butts” are littered or landfilled. Cigarette butts are regularly identified as

1 the single most prevalent component of the state's litter stream.
2 Cigarette butts have always been the most common item
3 collected during the state's annual coastal cleanup. In 2003, the
4 more than 300,000 cigarette butts collected by volunteers during
5 the one-day cleanup accounted for nearly 40 percent of total litter
6 collected.

7 (4) The reduction and cleanup of cigarette pollution and litter
8 ~~is are~~ resulting in significant new costs for public agencies and
9 taxpayers. Public agencies in California are already spending in
10 excess of \$100 million annually on litter cleanup. Cigarette litter
11 is a significant contributor to storm drain trash in California. The
12 mandates of the United States Environmental Protection Agency
13 for reducing the Total Maximum Daily Load (TMDL) of litter to
14 "zero" in specified watersheds ~~is are~~ expected to cost public
15 agencies and ultimately taxpayers, ~~more than _____ billion dollars~~
16 ~~(\$_____)~~ *and ultimately taxpayers, in southern California alone,*
17 *more than one billion seven hundred thousand dollars*
18 *(\$1,700,000,000) over the next decade.*

19 (5) Discarded cigarettes pose a significant threat to public
20 health and safety. Fires caused by discarded cigarettes claim the
21 lives of about 1,000 people every year, injuring more than 3,000,
22 and resulting in hundreds of millions of dollars in property
23 damage and fire suppression costs.

24 (6) Cigarette litter poses a threat to wildlife. Cigarette filters
25 have been found in the stomachs of fish, birds, whales, and other
26 marine creatures who mistake them for food. Composed of
27 cellulose acetate, a form of plastic, cigarette butts can persist in
28 the environment as long as other forms of plastic. Chemicals can
29 leach from cigarette butts within one hour of contact with water.
30 The chemicals that leach from cigarette butts are toxic to marine
31 and terrestrial life at concentrations as low as one cigarette butt
32 per 10 gallons and this toxicity persists for at least seven days.

33 (7) Greater public education is needed to correct the
34 misimpression that discarding cigarette butts at curbside is not
35 litter or a significant cause of pollution.

36 (8) The state and local governments spend hundreds of
37 millions of dollars each year to treat Californians who suffer
38 from illnesses and disease caused by the use of tobacco products
39 such as cigarettes and smokeless tobacco.

(9) The economic burden of smoking in California totals fifteen billion eight hundred million dollars (\$15,800,000,000) per year, costs equal to four hundred seventy-five dollars (\$475) for every Californian and more than three thousand three hundred dollars (\$3,300) per smoker.

(10) Manufacturers of tobacco products should be held financially liable for all of the adverse public health and environmental effects of their products, including tobacco addiction and cigarette-related pollution.

(11) Annually, more than 60 percent of smokers attempt to quit smoking, but tobacco cessation services are inadequate for providing an opportunity for smokers to quit.

(12) The fee imposed pursuant to this division will offset the costs of existing and needed programs to prevent and mitigate the environmental public health, and other publicly financed impacts discarded cigarettes and their remnants.

(c) The Legislature finds and declares that the imposition of the fee pursuant to Section 19003 would not result in the imposition of a tax within the meaning of Article XIII A of the California Constitution, because the amount and nature of the fee has a fair and reasonable relationship to the environmental, public health, and societal burdens imposed by the consumption, disposal, and littering of cigarette material, and there is sufficient nexus between the fees imposed and the use of those fees to support the collection and reduction of cigarette litter.

CHAPTER 2. DEFINITIONS

19002. Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

(a) “Board” means the State Board of Equalization.

(b) “Fund” means the Cigarette Pollution and Litter Prevention Fund established pursuant to Section 19003.

~~(c) “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where the roll has a wrapper that is wholly or in~~

1 ~~the greater part made of tobacco and the roll weighs over three~~
2 ~~pounds per thousand.~~

3 (c) *“Cigarette” has the same meaning as defined in Section*
4 *30003 of the Revenue and Taxation Code.*

5 (d) *“Cigarette package” means an individual packet, box, or*
6 *other container in which retail sales of cigarettes are normally*
7 *made or intended to be made. “Package” does not include a*
8 *container that is a carton, case, bale or box and, or other box that*
9 *contains smaller packaging units of cigarettes.*

10 (e) *“Manufacturer” means a person who manufactures a*
11 *cigarette.*

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13 CHAPTER 3. ESTABLISHMENT OF THE CIGARETTE POLLUTION
14 AND LITTER PREVENTION FEE
15

16 ~~19003. (a) A manufacturer shall annually pay a cigarette~~
17 ~~pollution and litter prevention fee to the board in accordance with~~
18 ~~this section. The fee paid by the manufacturer shall be in amount~~
19 ~~that is not greater than the costs of the environmental, public~~
20 ~~health, and societal burdens that are mitigated pursuant to this~~
21 ~~division.~~

22 ~~(b) On July 1, 2006, each manufacturer shall pay a cigarette~~
23 ~~pollution and litter prevention fee for each package of cigarettes~~
24 ~~sold in the State of California during the previous six months, as~~
25 ~~reported to the board. Each six months thereafter, each~~
26 ~~manufacturer shall pay the fee to the board based upon the~~
27 ~~number of packages of cigarettes sold in the State of California~~
28 ~~during the previous six months, as reported to the board. The~~
29 ~~board shall notify each manufacturer of the amount due under~~
30 ~~this section.~~

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32 CHAPTER 4. FINANCIAL PROVISIONS
33

34 ~~19004. (a) The board shall deposit all fees collected under~~
35 ~~this chapter into the Cigarette Pollution and Litter Prevention~~
36 ~~Fund, which is hereby created in the State Treasury.~~

37 ~~(b) The revenues in the fund may be expended by the~~
38 ~~Department of Conservation and the State Department of Health~~
39 ~~Services, upon appropriation by the Legislature, for all of the~~
40 ~~following purposes and programs:~~

~~(1) To help offset state government, local government, and other public agency costs associated with the cleanup of cigarette-related litter and to mitigate cigarette-related pollution.~~

~~(2) To develop and implement public education and outreach programs by public agencies and nonprofit organizations aimed at educating the public on the public health and environmental problems resulting from the improper discard of cigarette remnants.~~

~~(3) To develop and implement programs by public agencies and nonprofit organizations aimed at reducing the source of cigarette-related litter and pollution and the resulting public cost.~~

~~(4) To assist individuals to access and utilize smoking cessation services.~~

~~(5) To develop and implement public education, media advertising, and outreach programs aimed at preventing individuals from starting to smoke.~~

~~(6) To develop and implement effective community interventions aimed at reducing the harm caused by cigarettes.~~

~~(7) To reimburse the board for its costs of administration and collection of the fee imposed pursuant to this division.~~

~~(8) To provide for the costs of administering this division.~~

19003. (a) A manufacturer of cigarettes shall pay a cigarette pollution and litter prevention fee of ten cents (\$0.10) to the board for every pack of cigarettes distributed for sale to consumers in this state.

(b) On or before July 1, 2006, and on or before July 1 annually thereafter, a manufacturer shall pay the cigarette pollution and litter prevention fee specified in subdivision (a) for each package of cigarettes distributed for sale to consumers in the state during the previous calendar year, as reported to the board. The board shall notify each manufacturer of the amount due under this section.

(c) For purposes of this division, the board shall collect the fees pursuant to the fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(d) The board may pay refunds to manufacturers for any overpayments of the fee from the fund.

CHAPTER 4. FINANCIAL PROVISIONS

19004. (a) The board shall deposit all fees collected under this division into the Cigarette Pollution and Litter Prevention Fund, which is hereby created in the State Treasury.

(b) The revenues in the fund may be expended by the Department of Conservation and the State Department of Health Services, upon appropriation by the Legislature, for all of the following purposes and programs:

(1) Not less than 50 percent of the revenues annually deposited in the fund shall be expended by the Department of Conservation to provide funds to cities, counties, and other public agencies to offset the costs of programs for the prevention and cleanup of cigarette-related pollution and litter.

(2) Not less than 25 percent of the revenues annually deposited in the fund shall be expended by the State Department of Health Services, in consultation with the Department of Conservation and the State Water Resources Control Board, to develop and implement public education programs by public agencies and nonprofit organizations aimed at reducing the source of cigarette-related litter and pollution and the resulting public cost.

(3) Not less than 5 percent of the revenues annually deposited in the fund shall be expended by the State Department of Health Services for programs to assist individuals to access and utilize smoking cessation services.

(4) Not less than 5 percent of the revenues annually deposited in the fund shall be expended to develop and implement public education, media advertising, and outreach programs aimed at preventing individuals from starting to smoke.

(5) Not less than 5 percent of the revenues annually deposited in the fund shall be expended to develop and implement effective community interventions aimed at reducing the harm caused by cigarettes.

(6) Not more than 2 percent of the revenues annually deposited in the fund shall be expended by the board for the cost of collecting this fee.

(7) Not more than 2.5 percent of the revenues annually deposited in the fund shall be expended by the Department of Conservation to administer this division.

1 *(8) Not more than 2.5 percent of the revenues annually*
 2 *deposited in the fund shall be expended by the State Department*
 3 *of Health Services to administer this division.*

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6 **CORRECTIONS:**

7 **Text — Pages 6 and 7.**

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